IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

ARBITRATION PETITION NO.211 OF 2006

...

Mr.P.S.Swaminathan ...Petitioner

v/s.

Fortis Financial Services Ltd. ...Respondents

...

Mr.R.M.Tiwari for the Petitioner.

Ms.P. Dholkia i/b Dholkia Gupte & Co. for the Respondents.

...

CORAM: D.K.DESHMUKH, J.

DATED: 23RD AUGUST,2006

P.C.:

By this petition filed under Section 34 of the

Arbitration & Conciliation Act, the Petitioner challenges the award made by the sole arbitrator dated 28th March, 2006.

2. In so far as the principal challenge to the award that the Petitioner is not liable to repay the loan incurred by the company is concerned, admittedly the Petitioner is a Chief Executive Officer of a company to whom the loan was granted.

3. The submission of the learned Counsel for the Petitioner is that the loan was granted first by agreement dated 18-6-1996 and in that agreement the Petitioner was shown as a guarantor, but in the second agreement dated 12-8-1996 entered into between the same parties the Petitioner was not shown as a guarantor and therefore, according to the learned Counsel as claim has been made for recovery of the loan advanced by the agreement dated 12-8-1996, the learned arbitrator cannot make the Petitioner liable for the same.

4. The learned Arbitrator has held that by letter dated 6-5-1996, admittedly written by the Petitioner himself, request was made for advancing loan to the

company initially for a period of 90 days and then the period was to be extended by further 90 days. It was stated in the letter dated 6-5-1996, which was written by the Chief Executive Officer of the Company, that for repayment of the loan the present guarantee given by Mr.Sudarshan, Vice Chairman of the company and by the Petitioner as Chief Executive Officer will be continued. The learned Arbitrator has, therefore, held that as claim has been made for recovery of the loan granted under the agreement dated 18-6-1996, the repayment period of which is extended by agreement dated 12-8-1996, liability of the Petitioner as guarantor does not come to an end.

5. Taking overall view of the matter, therefore, in my opinion, the view that has been taken by the learned Arbitrator is a possible view on the basis of material available on record and calls for no interference at the hands of this court. Petition, therefore, fails and is dismissed.

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